



FIRE

Foundation for Individual
Rights and Expression

November 1, 2023

SENT BY ECF

Hon. Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY, 10007
ALCarterNYSDChambers@nysd.uscourts.gov

Re: *Volokh v. James*, 1:22-cv-10195: Plaintiffs' Opposed Motion for Leave to
File Reply Letter Brief in Support of Plaintiffs' Request for a Pre-Motion
Conference to Enforce Preliminary Injunction.

Dear Judge Carter:

Plaintiffs seek leave to file a reply in support of their October 25, 2023 request for a pre-motion conference to enforce this Court's preliminary injunction of New York General Business Law § 394-ccc (the Online Hate Speech Law). Pls.' Ltr. Br., ECF No. 38. On October 30, the State opposed this request to even hold a pre-motion conference, claiming that Plaintiffs are misreading both this Court's preliminary injunction and the Attorney General's demand for information from Plaintiff Rumble and other social-media platforms. State Resp. Br., ECF No. 39. The attached letter brief concisely responds to these new arguments.

Motions for additional briefing are ordinarily granted "when they address arguments raised for the first time" in briefing. *Bates v. Deva Concepts LLC*, No. 1:20-cv-9056-GHW, 2022 WL 2106494, at *1 (S.D.N.Y. June 10, 2022). Here, the attached reply brief addresses arguments made by the State for the first time regarding the scope and interpretation of this Court's injunction. Accordingly, Plaintiffs respectfully request this Court set a pre-motion conference to narrow the dispute concerning what the injunction covers, and either enforce the injunction or if necessary, set a briefing schedule on a motion to enforce.

Respectfully submitted,

/s Daniel M. Ortner
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cc: All Counsel of Record (By ECF)

Encl.